



PUBLIC NOTICE

Federal Communications Commission
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DA 02-1847

RELEASED: July 30, 2002

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON
EMERGENCY PETITION FOR DECLARATORY RULING AND OTHER RELIEF
PURSUANT TO SECTIONS 201(b) AND 252(e)(5) OF THE COMMUNICATIONS ACT
OF ACS OF ANCHORAGE, INC. AND ACS OF FAIRBANKS, INC.**

WC DOCKET NO. 02-201

Comments Due: August 20, 2002
Reply Comments Due: August 27, 2002

On July 24, 2002, ACS of Anchorage, Inc. and ACS of Fairbanks, Inc. (collectively ACS) filed an emergency petition, pursuant to sections 201(b) and 252(e)(5) of the Communications Act of 1934, as amended (the Act). In the petition, ACS requests that the Commission (i) declare that the determination of rates for unbundled network elements ("UNEs") by the Regulatory Commission of Alaska (the "RCA") for Anchorage and Fairbanks does not comport with applicable law; (ii) declare that the UNE rates established by the RCA for Anchorage and Fairbanks are confiscatory; and (iii) pursuant to the Commission's authority under sections 201(b) and 252(e)(5) of the Act, preempt the RCA and establish cost-based UNE rates based on ACS's forward-looking cost study.

Under section 252(e)(5), the Commission must act upon a carrier's preemption petition within 90 days of receiving notice of a state commission's failure to act under section 252. We therefore seek comment whether the RCA has "fail[ed] to act" under section 252(e)(5). In the event that the Commission grants preemptive relief or otherwise determines that action is warranted on ACS's requests for declaratory relief, it will issue a separate public notice seeking comments on the substantive pricing issues raised in ACS's petition.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

FILING PROCEDURES

Interested parties may file comments on the Petition on or before **August 20, 2002** and reply comments on or before **August 27, 2002**. Parties who choose to file by paper must file an original plus five (5) copies addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-B204, Washington, DC 20554. A courtesy copy should be addressed to Chief, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A225, Washington, DC 20554. A courtesy copy should also be addressed to Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail **qualexint@aol.com**.

Comments may be filed using the Commission's Electronic Comment Filing System ("ECFS") or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to: [<http://www.fcc.gov/e-file/ecfs.html>](http://www.fcc.gov/e-file/ecfs.html). In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the docket number of this proceeding. Only one copy of an electronic submission must be filed. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form<your e-mail address>." A sample form and directions will be sent in reply.

Paper copies can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail:

If you are sending this type of document or using this delivery method -- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to: Vistrionix, Inc., 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m.). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

If you are sending this type of document or using this delivery method -- Other messenger-delivered documents, including documents sent by commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail) must be sent to: 9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.).

If you are sending this type of document or using this delivery method -- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be sent to: 445 12th Street, SW, Room TW-B204, Washington, DC 20554.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail **qualexint@aol.com**.

For further information regarding this proceeding contact Margaret Dailey,
mdailey@fcc.gov, Pricing Policy Division, Wireline Competition Bureau, (202) 418-2396.

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